

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1765

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-8-2-49.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 49.2. "Compact", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(8).**

SECTION 2. IC 14-8-2-86.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 86.5. "Executive committee", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(7).**

SECTION 3. IC 14-8-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 107. "Fund" has the following meaning:

- (1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.
- (2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.
- (3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.
- (4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.
- (5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

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- (6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.
- (7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.
- (8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.
- (9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.
- (10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.
- (11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.
- (12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.
- (13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.
- (14) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.
- (15) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.
- (16) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.
- (17) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.
- (18) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.
- (19) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.
- (20) For purposes of ~~IC 14-23-8~~, **IC 14-24-4.5**, the meaning set forth in ~~IC 14-23-8-1~~. **IC 14-24-4.5-2(5).**
- (21) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.
- (22) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.
- (23) For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.
- (24) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.
- (25) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.
- (26) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

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(27) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

(28) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

(29) For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

(30) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

(31) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

(32) For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-8-2-117 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 117. "Governing board" has the following meaning:

(1) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(6).

(2) For purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-3.

SECTION 5. IC 14-8-2-169.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 169.5. "Motorized cart", for purposes of IC 14-19-1-1, has the meaning set forth in IC 14-19-1-0.5.

SECTION 6. IC 14-8-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 185. (a) "Off-road vehicle", for purposes of IC 14-16-1 ~~has the meaning set forth in IC 14-16-1-3~~ and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:

(1) without benefit of a road; and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multi-wheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming.

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle

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used in performance of the vehicle's common function.

(4) A snowmobile (as defined by section 261 of this chapter).

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

SECTION 7. IC 14-8-2-203 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 203. "Pest or pathogen" has the following meaning:

(1) Except as provided in IC 14-24-4.5, for purposes of IC 14-24, means: ~~an~~:

(1) (A) an arthropod;

(2) (B) a nematode;

(3) (C) a microorganism;

(4) (D) a fungus;

(5) (E) a parasitic plant;

(6) (F) a mollusk;

(7) (G) a plant disease; or

(8) (H) an exotic weed;

that may be injurious to nursery stock, agricultural crops, other vegetation, or bees.

(2) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(4).

SECTION 8. IC 14-8-2-239.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 239.5. "Requesting state", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(2).

SECTION 9. IC 14-8-2-242.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 242.5. "Responding state", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(3).

SECTION 10. IC 14-8-2-265 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 265. "State" has the following meaning:

(1) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(1).

(2) For purposes of IC 14-28-1, IC 14-28-3, and IC 14-32, means the following:

(1) (A) The Indiana state government.

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(2) (B) An agency, a subdivision, an officer, a board, a bureau, a commission, a department, a division, or an instrumentality of the state.

SECTION 11. IC 14-16-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "operate" means to:

- (1) ride in or on; and
- (2) be in actual physical control of the operation of;

~~an off-road~~ a vehicle.

SECTION 12. IC 14-16-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:

- (1) An off-road vehicle.
- (2) A snowmobile.

(b) Except as provided under subsection (c), ~~an off-road~~ a vehicle that is purchased after December 31, 2003, must be registered under this chapter.

(c) Registration is not required for the following vehicles:

- (1) A vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.
- (2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.
- (3) A vehicle being operated for purposes of testing or demonstration with temporary placement of numbers as set forth in section 16 of this chapter.
- (4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

- (A) The purchaser's name and address.
- (B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.
- (C) The make, model, and vehicle number of the vehicle provided by the manufacturer as required by section 13 of this chapter.

SECTION 13. IC 14-16-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) Except as provided in subsection (b), a person who violates this chapter commits a Class C infraction.

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(b) A person who violates ~~section 18, 23(1), 23(2)~~, **section 17, 23(a)(1), 23(a)(2)**, or 24 of this chapter commits a Class B misdemeanor.

SECTION 14. IC 14-19-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. (a) "Motorized cart" means a conveyance that is:**

- (1) motor driven, either by gas or electricity;**
- (2) used to carry passengers or equipment; and**
- (3) smaller than the types of motor vehicles required to be registered by the bureau of motor vehicles such as a:**
 - (A) passenger motor vehicle (as defined in IC 9-13-2-123);**
 - (B) recreational vehicle (as defined in IC 9-13-2-150); or**
 - (C) truck (as defined in IC 9-13-2-188).**

A motorized cart may be characterized as a golf cart, utility cart, or similar form of motor vehicle.

(b) The term does not include:

- (1) an electric personal assistive mobility device (as defined in IC 9-13-2-49.3);**
- (2) a motorcycle (as defined in IC 9-13-2-108);**
- (3) a motor scooter (as defined in IC 9-13-2-104);**
- (4) a motorized bicycle (as defined in IC 9-13-2-109); or**
- (5) an off-road vehicle.**

SECTION 15. IC 14-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. The department shall do the following:**

- (1) Have the custody of and maintain the parks, preserves, forests, reservoirs, and memorials owned by the state.**
- (2) Adopt the necessary rules under IC 4-22-2 to secure enforcement of this title, which must include provisions for the use of motorized carts during the hours specified in IC 9-21-7-2(a)(1) at state parks and recreation areas by an individual who is the holder of a driver's license and who:**
 - (A) is at least sixty-five (65) years of age; or**
 - (B) has a disability as defined by the federal Social Security Administration guidelines (42 U.S.C. 416).**
- (3) Prepare, print, post, or distribute printed matter relating to the state parks and preserves.**
- (4) Subject to the approval of the governor, purchase land for parks or preserves and scenic and historic places. For the purpose of acquiring land for parks or preserves and scenic and historic places, the commission may exercise the power of eminent**

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domain in the manner provided in IC 14-17-3.

(5) Accept in the name of the state by gift or devise the fee or other estate in land or scenic or historic places.

(6) Employ, with the approval of the authorities having control of a state penal institution, the convicts committed to a penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining, or developing land purchased or acquired by the state for parks or preserves or as scenic or historic places.

(7) Have the custody of all abstracts of title, papers, contracts, or related memoranda except original deeds to the state, for land purchased or received for parks or preserves or for scenic or historic purposes under this section.

(8) Cooperate with:

(A) the department of environmental management;

(B) other state agencies; and

(C) local units of government;

to protect the water and land of Indiana from pollution.

(9) Have general charge of the navigable water of Indiana.

SECTION 16. IC 14-22-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person may not hunt or take a migratory waterfowl within Indiana without having a migratory waterfowl stamp issued by the department. The stamp must be in the possession of each person hunting or taking a migratory waterfowl. ~~However, the stamp need not be affixed to the hunting license.~~ The licensee shall validate the stamp with the signature, in ink, of the licensee ~~written across the face of the stamp on the hunting license on which the electronically generated form of the stamp is attached.~~

(b) The department shall determine the form of the migratory waterfowl stamp **and may create and sell commemorative migratory waterfowl stamps.**

(c) The department may furnish the **commemorative** migratory waterfowl stamps **or the electronically generated form of the stamps** to ~~each~~ a clerk of the circuit court ~~and~~ **or** the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 17. IC 14-22-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A stamp shall be issued to each hunting license applicant or holder upon ~~written~~ request ~~on forms furnished by the department~~ and the payment of a fee of six dollars and seventy-five cents (\$6.75). Each stamp expires on ~~the last~~

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~~day of February~~ **March 31** of the year following issuance.

SECTION 18. IC 14-22-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person may not hunt or take a game bird within Indiana without having a game bird habitat restoration stamp issued by the department. The stamp must be in the possession of each person hunting or taking a game bird. The licensee shall validate the stamp with the signature of the licensee ~~written across the face of the stamp on the hunting license on which the electronically generated form of the stamp is attached.~~

(b) The department shall do the following:

(1) Determine the form of the stamp **and may create and sell commemorative game bird habitat restoration stamps.**

(2) Furnish the **commemorative stamps or the electronically generated form of the stamps** to ~~each~~ a clerk of the circuit court ~~and or~~ the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 19. IC 14-22-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~☆ An electronically generated stamp shall be issued to each hunting license applicant or holder upon written request on forms furnished by the department and the payment of a fee of six dollars and seventy-five cents (\$6.75). Each stamp expires on the last day of February~~ **March 31** of the year following issuance.

SECTION 20. IC 14-22-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) An applicant for a hunting, trapping, or fishing license must provide the applicant's Social Security number in ~~the space provided on the application for order to obtain~~ the license. Social Security numbers acquired under this subsection shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

(b) The director and agents appointed by the director as authorized representatives of the department shall issue hunting, trapping, and fishing licenses.

(c) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.

(d) Each hunting, trapping, or fishing license must be in a form prescribed by the director. ~~and shall be countersigned by the clerk or agent issuing the license.~~ The director ~~shall~~ **may** furnish the clerks and agents with all necessary ~~blank forms.~~ **equipment needed to issue a license.**

(e) All licenses, stamps, or permits purchased electronically are

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valid only with the original signature of the licensee on the form prescribed by the director. The licensee's signature serves as an affidavit that the license, stamp, or permit information is true and accurate.

~~(e)~~ (f) A person who violates the confidentiality requirement of subsection (a) commits a Class A infraction.

SECTION 21. IC 14-22-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in IC 14-22-13-9 and IC 14-22-15-3, each yearly hunting or fishing license expires on ~~the last day of February~~ **March 31** of the year following the year in which the license became effective.

(b) A yearly trapping license expires on March 31 of the year following the year in which the license became effective.

SECTION 22. IC 14-22-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) ~~Upon receiving an application,~~ The department may issue a duplicate license to replace a lost license issued to an Indiana resident under sections 1 and 4 of this chapter.

(b) ~~An application~~ for A duplicate license under subsection (a) must meet the following conditions:

- ~~(1) Be in writing on a form prescribed by the department.~~
- ~~(2) State that the applicant had been issued a license.~~
- ~~(3) State that the license was lost.~~
- ~~(4)~~ (1) Be signed by the applicant.
- ~~(5)~~ (2) Be accompanied by a fee equal to one-half ($1/2$) the cost of the lost license, rounded to the next highest dollar.
- ~~(6) Be submitted to the division office in Indianapolis.~~
- ~~(7) State that the applicant is an Indiana resident.~~ **established by the commission.**

SECTION 23. IC 14-22-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) **Before July 1, 2005,** the director may issue to residents of Indiana lifetime licenses to hunt, fish, or trap. Subject to subsection (b), the following license fees shall be charged:

- (1) Lifetime basic fishing license, twenty (20) times the fee charged for a resident yearly license to fish. This license replaces the resident yearly license to fish.
- (2) Lifetime basic hunting license, twenty (20) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt.
- (3) Lifetime comprehensive fishing license, thirty (30) times the fee charged for a resident yearly license to fish. This license

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replaces the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species.

(4) Lifetime comprehensive hunting license, sixty (60) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt and all other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(5) Lifetime comprehensive hunting and fishing license, the fee charged under subdivisions (3) and (4) less ten percent (10%). This license replaces the following:

(A) The resident yearly license to hunt.

(B) All other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(C) The resident yearly license to fish.

(D) All other yearly licenses, stamps, or permits to fish for a specific species.

(6) Lifetime trapping license, twenty (20) times the fee charged for a resident yearly license to trap. This license replaces the resident yearly license to trap.

(b) This subsection applies only to individuals who are at least fifty (50) years of age. The license fees under subsection (a) shall be reduced by the amount determined under STEP THREE of the following formula:

STEP ONE: Subtract forty-nine (49) from the resident applicant's age in years.

STEP TWO: Multiply the difference determined under STEP ONE by two and one-half percent (2.5%).

STEP THREE: Multiply the percentage determined under STEP TWO by the amount of the appropriate fee under subsection (a).

(c) Each lifetime license:

(1) is nontransferable;

(2) expires on the death of the person to whom the license was issued; and

(3) may be suspended or revoked for the same causes and according to the same procedures that a resident yearly license to hunt, fish, or trap, as appropriate, may be suspended or revoked.

(d) No part of a lifetime hunting, fishing, or trapping license is refundable. However, the holder of:

(1) a basic license to hunt or fish may be given credit for the current cost of such a license when purchasing a comprehensive license to hunt or fish or hunt and fish; and

(2) a comprehensive license to hunt or fish may be given credit

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for the current cost of such a license when purchasing a lifetime comprehensive license to hunt and fish.

(e) All money received under this section shall be deposited in the lifetime hunting, fishing, and trapping license trust fund established by IC 14-22-4.

SECTION 24. IC 14-24-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.5. Pest Control Compact

Sec. 1. (a) The pest control compact is enacted and entered into with all other jurisdictions legally joining the compact in the form substantially as follows in this chapter.

(b) The party states find the following:

(1) In the absence of the higher degree of cooperation among the party states possible under this compact, the annual loss of approximately one hundred thirty-seven billion dollars (\$137,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.

(2) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests. However, all states share the inability to protect themselves fully against the pests that present serious dangers.

(3) The migratory character of pest infestations makes it necessary for states to complement each other's activities when faced with conditions of infestation and reinfestation.

(4) While every state is seriously affected by a substantial number of pests, and every state is susceptible to infestation by many species of pests not causing damage to its crops, plant life, and products, the fact that relatively few species of pests present equal danger to, or are of interest to, all states makes the establishment and operation of a fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

Sec. 2. As used in this chapter:

(1) "State" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) "Requesting state" means a state that invokes the

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procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one (1) or more pests within one (1) or more other states.

(3) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (2).

(4) "Pest or pathogen" means an invertebrate animal, a pathogen, a parasitic plant, or a similar or an allied organism that can cause disease or damage in any crop, tree, shrub, grass, or other plant of substantial value.

(5) "Fund" means the pest control insurance fund established by section 3 of this chapter.

(6) "Governing board" means the administrators of the compact representing all the party states when the administrators act as a body under authority vested in the administrators by the compact.

(7) "Executive committee" means the committee established under section 5(e) of this chapter.

(8) "Compact" refers to the pest control compact enacted under section 1(a) of this chapter.

Sec. 3. The pest control insurance fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to the fund by the party states and any donations and grants accepted by the fund. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in the compact, must be unconditional and may not be restricted by the appropriating state to use in the control of a specified pest or pests. Donations and grants may be conditional or unconditional. However, the fund may not accept any donation or grant whose terms are inconsistent with the compact.

Sec. 4. (a) The fund shall be administered by the governing board and executive committee as provided in this chapter. The actions of the governing board and the executive committee under the compact are considered the actions of the fund.

(b) The members of the governing board are entitled to one (1) vote on the board. Action of the governing board is not binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor of the proposed action. Action of the governing board may be only at a meeting at which a majority of the members is present.

(c) The fund shall have a seal that may be employed as an official symbol and that may be affixed to documents and used as

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the governing board provides.

(d) The governing board shall elect annually, from among its members, a chairperson, a vice chairperson, a secretary, and a treasurer. The chairperson may not serve consecutive terms. The governing board may appoint an executive director and fix the executive director's duties and compensation, if any. The executive director shall serve at the pleasure of the governing board. The governing board shall provide for the bonding of the officers and employees of the fund as is appropriate.

(e) Notwithstanding the civil service, personnel, or other merit system laws of any of the party states, the executive director, or if there is not an executive director, the chairperson, in accordance with the procedures the bylaws provide, shall appoint, remove, or discharge any personnel as is necessary to perform the functions of the fund and shall fix the duties and compensation of any personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the fund.

(f) The fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency or from any person, firm, association, or corporation.

(g) The fund may accept for purposes of the fund or functions under this compact donations, grants, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation and may receive, use, and dispose of the same. A donation, gift, or grant accepted by the governing board under this subsection or services borrowed under subsection (f) shall be reported in the annual report of the fund. The annual report must include the nature, amount, and conditions, if any, of the donation, gift, or grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the fund and may amend and rescind these bylaws. The fund shall publish the bylaws of the fund in convenient form and shall file a copy of the bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the party states.

(i) The fund annually shall make to the governor and legislature of each party state a report covering the fund's activities for the preceding year. The fund may make additional reports it considers desirable. The report to the legislature under this subsection must

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be in an electronic format under IC 5-14-6.

(j) The fund may do other things as are necessary and incidental to the conduct of the fund's affairs under the compact.

Sec. 5. (a) Each party state must have a compact administrator who shall be selected and serve in a manner as the laws of the party state may provide and who shall:

- (1) assist in the coordination of activities under the compact in the compact administrator's state; and
- (2) represent the compact administrator's state on the governing board of the fund.

(b) If the laws of the United States specifically provide, or if an administrative provision is made within the federal government, the United States may be represented on the governing board by not more than three (3) representatives. A representative of the United States shall be appointed and serve in a manner as provided by federal law, but the representative may not vote on the governing board or the executive committee.

(c) The governing board shall meet at least once each year to determine policies and procedures in the administration of the fund and, consistent with the compact, supervise and give direction to the expenditure of money from the fund. Additional meetings of the governing board shall be held on call of the chairperson, the executive committee, or a majority of the governing board.

(d) When the governing board meets, it shall act upon applications for assistance from the fund and authorize disbursements from the fund. When the governing board is not meeting, the executive committee shall act as agent of the governing board, with full authority to act for the governing board in acting upon the applications for assistance.

(e) The executive committee consists of the chairperson of the governing board and four (4) additional members of the governing board chosen by the governing board so that one (1) member represents each of four (4) geographic groupings of party states. The governing board shall make the geographic groupings. If there is representation of the United States on the governing board, one (1) United States representative may meet with the executive committee. The chairperson of the governing board shall be chairperson of the executive committee. An action of the executive committee is not binding unless taken at a meeting at which at least four (4) members of the executive committee are present and vote in favor of the action. Necessary expenses of each of the five (5) members of the executive committee incurred in attending

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meetings of the executive committee, when not held at the same time and place as a meeting of the governing board, are charges against the fund.

Sec. 6. (a) Each party state pledges to each other party state that the party state will employ its best efforts to eradicate, or control within the strictest practicable limits, all pests or pathogens. The performance of this responsibility involves the following:

(1) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for the party state's own protection in the absence of the compact.

(2) The meeting of emergency outbreaks or infestations of interstate significance to not less an extent than would have been done in the absence of the compact.

(b) Whenever a party state is threatened by a pest or pathogen not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pathogen and finds that control or eradication activities are or would be impracticable or substantially more difficult to accomplish because of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the fund for eradication or control measures to be taken by one (1) or more of the other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon the governing board's authorization, the responding state or states shall take or increase any eradication or control measures warranted. A responding state shall use money available from the fund expeditiously and efficiently to assist in providing the protection requested.

(c) To apply for expenditures from the fund, a requesting state shall submit the following in writing:

(1) A detailed statement of the circumstances that occasion the request to invoke the compact.

(2) Evidence that the pest or pathogen on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or a forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

(3) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including

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full information as to the legal authority for the conduct of the program or programs and the expenditures being made or budgeted for the program or programs, in connection with the eradication, control, or prevention of introduction of the pest or pathogen concerned.

(4) Proof that the expenditures being made or budgeted as detailed in subdivision (3) do not constitute a reduction of the effort for the control or eradication of the pest or pathogen concerned or, if there is a reduction, the reasons why the level of program detailed in subdivision (3) constitutes a normal level of pest control activity.

(5) A declaration as to whether, to the best of its knowledge and belief, the conditions that the requesting state believes require the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of money from the fund in one (1) year or less, or whether the request is for an installment in a program that is likely to continue for a longer period.

(6) Other information the governing board requires consistent with the compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the fund is to be considered. The notice shall be given to the compact administrator of each party state and to the other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state are entitled to be represented and present evidence and argument at the meeting.

(e) Upon the submission as required by subsection (c) and any other information that the governing board has or acquires, and upon determining that an expenditure of funds is within the purposes of and justified by the compact, the governing board or executive committee shall authorize support of the program. The governing board or executive committee may meet at any time or place to receive and consider an application. All determinations of the governing board or executive committee, with respect to an application, together with the reasons for the determination shall be recorded and subscribed in a manner that shows and preserves the votes of the individual members of the board or committee.

(f) A requesting state that is dissatisfied with a determination of the executive committee, upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, is entitled to receive a review of the determination at the next

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meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at one (1) of its regular meetings or at a special meeting held in a manner the governing board authorizes.

(g) Responding states required to undertake or increase measures under the compact may receive money from the fund, either at the time or times when the state incurs expenditures because of the measures, or as reimbursement for expenses incurred and chargeable to the fund. The governing board shall adopt and may amend or revise procedures for submission and payment of claims from the fund.

(h) Before authorizing the expenditure of money from the fund under an application of a requesting state, the fund shall ascertain the extent and nature of any timely assistance or participation that is available from the federal government and shall request the appropriate agency or agencies of the federal government for any available assistance and participation.

(i) The fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the fund, cooperating federal agencies, states, and any other entities concerned.

Sec. 7. The governing board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise the governing board concerning any of its functions. An advisory or technical committee or a member or members of the committee may meet with and participate in the governing board's deliberations upon request of the governing board or executive committee. An advisory or a technical committee may furnish information and recommendations concerning any application for assistance from the fund being considered by the governing board or committee, and the governing board or committee may receive and consider the same. However, a participant in a meeting of the governing board or executive committee held under section 6(d) of this chapter is entitled to know the substance of the advisory or technical committee's information and recommendations at the time of the meeting if made before the meeting or as a part of the meeting, or, if made after the meeting, not later than the time at which the governing board or executive committee makes its disposition of the application.

Sec. 8. (a) A party state may make an application for assistance

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from the fund concerning a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this section.

(b) At or in connection with any meeting of the governing board or executive committee held under section 6(d) of this chapter, a nonparty state is entitled to appear, participate, and receive information only to the extent as the governing board or executive committee may provide. A nonparty state is not entitled to review of a determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the fund to be made in a nonparty state only after determining that the conditions in the nonparty state and the value of the expenditures to the party states as a whole justify the expenditures. The governing board or executive committee may set any conditions it considers appropriate concerning the expenditure of money from the fund in a nonparty state and may enter into an agreement or agreements with nonparty states and other jurisdictions or entities as it considers necessary or appropriate to protect the interests of the fund with respect to expenditures and activities outside party states.

Sec. 9. (a) The fund shall submit to the executive head or designated officer or officers of each party state a budget for the fund for a period as may be required by the laws of that party state for a presentation to the party state's legislature.

(b) Each of the budgets must contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows:

- (1) One-tenth (0.1) of the total budget in equal shares.
- (2) The remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state.

In determining the value of the party states' crops and products, the fund may employ any source of information it believes presents the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations must indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the fund shall be maintained in two (2) accounts to be designated respectively as the "operating account"

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and the "claims account". The operating account consists only of those assets necessary for the administration of the fund during the ensuing two (2) year period. The claims account must contain all money not included in the operating account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the fund for three (3) years. If the claims account has reached its maximum limit or would reach its maximum limit by the addition of money requested for appropriation by the party states, the governing board shall reduce the budget requests on a pro rata basis in a manner that keeps the claims account within its maximum limit. Any money in the claims account by virtue of conditional donations, grants, or gifts shall be included in calculations made under this subsection only to the extent that the money is available to meet demands arising out of the claims.

(d) The fund shall not pledge the credit of any party state. The fund may meet any of its obligations in whole or in part with money available to it under section 4(g) of this chapter. However, the governing board takes specific action setting aside the money before incurring any obligation to be met in whole or in part. Except where the fund makes use of money available to it under section 4(g) of this chapter, the fund shall not incur any obligation before the allotment of money by the party states adequate to meet the obligation.

(e) The fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the fund are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the fund shall be audited yearly by a certified or licensed public accountant and report of the audit must be included in and become part of the annual report of the fund.

(f) The accounts of the fund must be open at any reasonable time for inspection by authorized officers of the party states and by any persons authorized by the fund.

Sec. 10. (a) The compact becomes effective when enacted into law by any five (5) or more states. After the compact becomes effective, the compact becomes effective as to any other state upon the state's enactment of the compact.

(b) A party state may withdraw from the compact by enacting a statute repealing the law enacting the compact, but a withdrawal does not take effect until two (2) years after the executive head of the withdrawing state gives notice in writing of the withdrawal to

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the executive heads of all other party states. A withdrawal does not affect any liability incurred by or chargeable to a party state before the time of the withdrawal.

Sec. 11. This compact shall be liberally construed to effectuate the purposes of the compact. The provisions of the compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and its applicability to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any party state, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Sec. 12. Consistent with law and within available appropriations, the departments, agencies, and officers of Indiana may cooperate with the fund.

Sec. 13. (a) The commissioner of agriculture or the commissioner's designee shall serve as compact administrator for Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the commissioner of agriculture or the commissioner's designee whenever the commissioner or commissioner's designee believes the conditions qualifying Indiana for assistance exist and it would be in the best interest of Indiana to make a request.

Sec. 15. The compact administrator is designated to receive notices under section 6(d) of this chapter.

Sec. 16. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified under the compact shall have credited to the department's, agency's, or officer's account, in the state treasury, the amount or amounts of any payments made to Indiana to defray the cost of the program or any part of the program, or as reimbursement from the program.

Sec. 17. When the compact refers to the executive head, with

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reference to Indiana, the executive head is the governor.

SECTION 25. IC 14-16-1-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 26. IC 14-22-1-3 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 14-19-1-1(2), as amended by this act, the department of natural resources shall carry out the duties imposed upon it under IC 14-19-1-1(2) under interim written guidelines approved by the director of the department of natural resources.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 14-19-1-1(2).

(2) December 31, 2006.

SECTION 28. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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